



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DIGIMARC CORPORATION
9405 SW GEMINI DRIVE
BEAVERTON OR 97008

MAILED

JUL 12 2010

OFFICE OF PETITIONS

In re Patent of Conwell	:	DECISION ON REQUEST
Patent No. 7,657,064	:	FOR RECONSIDERATION OF
Issue Date: February 2, 2010	:	PATENT TERM ADJUSTMENT
Application No. 09/670,113	:	AND NOTICE OF INTENT TO
Filing Date: September 26, 2000	:	ISSUE CERTIFICATE OF
Attorney Docket No. 60299	:	CORRECTION

This is a decision on the petition filed on January 20, 2010, which is being treated as a petition under 37 C.F.R. § 1.705(d) requesting the patent term adjustment indicated on the patent be corrected to indicate the term of the patent is extended or adjusted by two thousand seven hundred seventy-two (2772) days.

The petition to correct the patent term adjustment indicated on the patent to indicate the term of the patent is extended or adjusted by two thousand seven hundred seventy-two (2772) days is **GRANTED to the extent indicated herein.**

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 C.F.R. § 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under 37 C.F.R. § 1.136.

The periods of delay under 35 U.S.C. § 154(b)(1)(A) ("A Delay"), 35 U.S.C. § 154(b)(1)(C) ("C Delay"), and 35 U.S.C. § 154(b)(2)(C) ("Applicant Delay") are not in dispute. The period of A Delay is 662 days, the period of C Delay is 1142 days, and the period of Applicant Delay is 162 days.

The period of delay under 35 U.S.C. § 154(b)(1)(B) ("B Delay") is in dispute. Petitioner asserts B delay is 2321 days. Pursuant to 35 U.S.C. § 154(b)(1)(B)(i), B Delay does not include any time period consumed by continued examination. A Request for Continued Examination was filed on May 18, 2004. Therefore, the period of B Delay does not include the period from May 18, 2004 to February 2, 2010, the date of issuance. In other words, B Delay is the 234-day period from September 27, 2003 until May 17, 2004.

Petitioner asserts overlap between A Delay and B Delay is 49 days and overlap between B Delay and C Delay is 1142 days. However, petitioner's determinations of overlap are based on the mistaken assumption B Delay includes the period from September 27, 2003 until February 2, 2010. The correct period of B Delay is from September 27, 2003 until May 17, 2004, which does not overlap with the period of A Delay or the period of C Delay.

In view of the prior discussion, the patent term adjustment is 1876 days which is the sum of 662 days of A Delay, 234 days of B Delay, and 1142 days of C Delay reduced by 162 days of Applicant Delay.

The Office acknowledges submission of the \$200.00 fee set forth in 37 C.F.R. § 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the patent is extended or adjusted by **one thousand eight hundred seventy-six (1876)** days.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.



Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

**UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION**

PATENT NO. : 7,657,064 B1
APPLICATION NO. : 09/670,113
DATED : February 2, 2010
INVENTOR(S) : William Y. Conwell

DRAFT

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the Title page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 1642 days.

Delete the phrase "by 1642 days" and insert -- by 1876 days--